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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues in relation to the fifth periodic report of China*

Articles 1 and 4

1. In the light of the Committee's previous concluding observations (paras. 32 and 33),[1] please indicate whether the amendments proposed in 2014 to the Criminal Law introduce a definition of torture that is compatible with article 1 of the Convention.[2] If not, please provide information on the measures envisaged to ensure such compatibility. Please also indicate the legal provisions under which State agents who are not judicial officers or officers of an institution of confinement and other persons acting in an official capacity, at the instigation of or with the consent or acquiescence of public officials can be prosecuted for the crime of torture.[3] Please also indicate under which legal provisions acts of torture perpetrated for purposes other than to extract confessions can be prosecuted.

2. Please clarify the status of the Convention in the domestic legal system. Have the rights contained in the Convention and the definition of torture set out in article 1 been invoked by parties in court proceedings or applied by national courts, either as a ground for a case or as interpretative guidance for legal norms? If so, please provide detailed examples.

Article 2[4]

3. In the light of the Committee's previous concluding observations (para. 11), please provide information on the measures taken to prevent torture and ill-treatment during detention and, in particular:

* Adopted by the Committee at its fifty-fourth session (20 April–15 May 2015).

[1] Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee and published under the symbol CAT/C/CHN/CO/4.

[2] See A/HRC/25/5 and Corr.1, para. 186.49.

[3] See CAT/C/CHN/CO/4/Add.2, p. 19.

[4] The issues raised under article 2 could also be addressed under other articles of the Convention, including article 16. Paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties reads: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. ... In practice, the definitional threshold between ill-treatment and torture is often not clear." See also chapter V of the same general comment.

(a) To bring detainees promptly before a judge, in order to allow them to challenge the legality of their detention or treatment, and to reduce the 37-day maximum period of police custody, in line with international standards. Please clarify the special circumstances that can justify an extension of police custody to 7 days, the type of criminal suspects to which the 30-day extension period applies and whether a warrant for an extension is to be requested in those cases.[5] Please provide annual statistics, disaggregated by location, criminal charge and gender, on the number of criminal suspects who have had their police custody extended to 7 days and the number of those who had it extended to 30 days or longer, and indicate the proportion of the total number of detainees in police custody those numbers represent. Please also comment on reports that police custody continues to apply beyond the 37-day maximum period, and in cases involving State secrets, for indefinite periods;

(b) To systematically register all detainees and keep records of all periods of pretrial detention. In relation to paragraph 31 of the State party report[6] and the letter of the Rapporteur for follow-up to concluding observations dated 29 October 2010, please specify whether the detainee registration system includes records of the actual time of detention, the time the detainee is placed in formal custody or under arrest, the names of the officers who accompanied the detainee to the detention facility and the names of the officers who registered the detainee. Please indicate the number of detainees currently registered, and the percentage of detention facilities participating in the registration system; whether the relatives of detainees have access to such records, including medical records; the measures taken to ensure compliance with record keeping; and the penalties applied in the period under review for failure to complete the registers properly;

(c) To ensure that detainees promptly undergo an independent medical examination and are able to gain access to treatment by a doctor of their choice on request. What safeguards are in place to ensure that medical personnel are able to examine victims out of the hearing and sight of police officers, and are able to report in strict confidentiality signs of torture, without fear of reprisals?[7] In how many detention centres and prisons are there medical doctors available to conduct an initial medical examination of the newly arrived detainees/prisoners? To which authority are those doctors reporting? What guidelines are in place to ensure that they can identify cases of torture and ill-treatment?

(d) To ensure that detainees are able to promptly gain access to a lawyer of their choice or free legal assistance, including during interrogations. In relation to paragraphs 102 and 103 of the State party report, please provide information on the type of cases that fall under the category of "crimes endangering State security", for which lawyers are to ask for approval before meeting their clients. Please explain the approval procedure, who decides on the matter and under which criteria,[8] and include information on the annual number of requests for approval submitted in these cases, on how many requests have been granted and denied, and on the reasons for any denials. What is the maximum time period during which a detainee may be denied access to a lawyer in these cases? When a lawyer's request to see a detainee is approved, can police officers monitor, through the use of audio devices or otherwise, conversations between a lawyer and a detainee? Please include information on the number of complaints lodged regarding violations of the right to counsel and the outcome of those complaints, including penalties applied;

[5] See CAT/C/CHN/CO/4/Add.2, p. 3.
[6] CAT/C/CHN/5.
[7] Ibid., pp. 4–5.
[8] Letter of the Rapporteur for follow-up to concluding observations.

(e) To ensure that all detainees can enjoy, in practice, their right to contact relatives within 24 hours. Please explain how the implementation of article 83 of the Criminal Procedure Law, according to which the notification of relatives may be restricted in certain cases if it hinders the investigation, is monitored, and which legal safeguards apply to prevent abuse and disappearances from taking place. What is the maximum time period during which a detainee may be denied access to family visits in these cases? How many complaints have been lodged during the period under review on the grounds that family members did not receive official notification about the detention: what were the outcomes and what penalties were applied? Please comment on reports that during the so-called Jasmine Revolution of 2011, and between 2014 and 2015, several dissidents were subject to incommunicado detention for more than three months, and that many of them were allegedly tortured during that period;

(f) To adopt the draft provisions on informing detainees of their rights and the obligations of criminal detention facilities, referred to in paragraph 99 of the State party report, and the measures to implement those provisions effectively. What stage of the adoption process have the draft provisions reached?

4. In relation to the Committee's previous concluding observations (para. 18), please provide information on:

(a) The measures taken to amend legal provisions that undermine the independence of lawyers, including article 306 of the Penal Code and article 39 of the Criminal Procedure Law, in line with the recommendations of the Committee on the Elimination of Racial Discrimination,[9] and the proposed amendment to article 309 (4) of the Criminal Procedure Law. In addition, please indicate the measures taken to prevent and combat unlawful or unjustified interference of any kind with the work of human rights lawyers, such as the detention or eviction from court of lawyers during the exercise of their duties, as in the cases of Wang Quanzhang, detained in April 2013 in the courtroom allegedly for speaking loudly during a hearing, of Zhang Keke, detained in December 2014 in the courtroom, and of Xiangdong and Wu Liang Shu, evicted from the courtroom while exercising their duties as defence lawyers; and the revocation of lawyers' licences to practice law, as in the cases of Tang Jitian and Lieu Wei[10] and of Teng Biao, Jiang Tianyong, Li Heping, Wen Haibo, Liu Shihui, Chen Wuquan, Wang Cheng and Wan Quanping. How many complaints of lawyers being unreasonably barred from court or unreasonably deprived of their licences were documented during the period under review?

(b) The State party's view on concerns raised by the Special Rapporteur on the independence of judges and lawyers regarding legislative amendments to the Law on Lawyers, and regulations on professional licences for lawyers;[11]

(c) The outcome of investigations into cases involving the ill-treatment and torture of lawyers, allegedly in retaliation for defending activists, dissidents or petitioners, including the cases of: Teng Biao, arrested on 19 February 2011 and allegedly ill-treated during detention; Yu Wensheng, detained in October 2014 and allegedly tortured during detention; Wang Yonghang, detained on 16 June 2009 and allegedly ill-treated in detention; and four human rights lawyers, who complained on 25 March 2014 of being arbitrarily detained, assaulted and tortured by police after demanding to visit their clients held in an education centre in the city of Jiansanjiang.

[9] See CERD/C/CHN/CO/10-13, para. 19.
[10] See A/HRC/13/39/Add.6, para. 21.
[11] See A/HRC/11/41/Add.1, paras. 71–76 and 90.

5. In the light of the Committee's previous concluding observations (para. 16), please provide detailed information on how the 2010 amendment made to the 1988 Law on the Preservation of State Secrets and the 2014 Regulations on the Implementation of the Law on the Preservation of State Secrets affect the classification of information related to torture. What is the current situation with regard to the availability of information, including statistics, on detainees in all forms of detention and on unnatural deaths in detention? Does the amended law contain provisions ensuring that the determination as to whether a matter is a State secret can be challenged before an independent tribunal, and does every suspect in cases involving State secrets have the right to have prompt access to a lawyer of his or her choice? Please provide, for the period under review, the number and the outcome of cases in which detainees have challenged decisions as to whether a matter constitutes a State secret. Please also clarify the process by which information becomes classified under the State secrets system, the criteria by which such determination is made, and the legislative process required for authorizing an adjustment of what constitutes a State secret, including procedures through which classification as a State secret can be challenged.

6. In relation to the Committee's previous concluding observations (para. 27), please provide:

(a) Information on the measures, including legislative ones, taken to combat various forms of violence against women and girls, including trafficking, domestic violence,[12] marital rape, sexual harassment,[13] sexual assault of girls in schools, including by their teachers,[14] and abandonment of baby girls, to investigate all allegations of ill-treatment and abuse, and to protect the victims;

(b) Data on complaints relating to such violence, on related investigations, protection orders, prosecutions and convictions and on the punishment applied in the period under review;

(c) Information on the protection provided to victims of such acts, including access to medical, social and legal services, temporary accommodation or shelters, the number of victims who have received such protection and the specific form of protection they received during the period under review.

Article 3

7. With reference to the Committee's previous concluding observations (para. 26), please provide information on:

(a) The measures taken to adopt legislation that explicitly incorporates the prohibition of returning a person to a country where he or she faces substantial risk of torture;

(b) The steps taken to establish a national asylum procedure, as a follow-up to the Exit-Entry Administration Law of 2012, that provides for an adequate screening process for status determination in order to establish whether persons subject to return may face a substantial risk of torture. Please also provide information on appeal procedures to review decisions to expel persons and indicate whether an appeal against an expulsion decision has suspensive effect;

(c) Whether asylum seekers and persons subject to extradition have access to independent legal assistance free of charge during asylum or extradition proceedings, including during the appeals process.

[12] See E/C.12/CHN/CO/2, para. 27 and A/HRC/26/39/Add.2, para. 107 (a).
[13] See E/C.12/CHN/CO/2, para. 21.
[14] See A/HRC/26/39/Add.2, paras. 90–91.

8. Please provide statistical data for the period under review, disaggregated by year and country of origin of the person concerned, on:

(a) The number of asylum requests registered;

(b) The number of requests for asylum, refugee status or other forms of humanitarian protection that were granted, indicating, when applicable, the number of cases in which protection was granted in application of the principle of non-refoulement;

(c) The number of torture victims identified among asylum seekers in relation to the total number of asylum seekers, the procedures applied to undertake such identification and the measures taken in respect of those identified as torture victims;

(d) The number of persons extradited, expelled or returned and the countries to which they were expelled or extradited;

(e) The number of appeals against expulsion or extradition decisions lodged on the basis that applicants might be in danger of being subject to torture in their countries of destination, and the results of those appeals.

9. According to information before the Committee, approximately 29 persons, including a one-year-old baby, were allegedly forcibly returned to the Democratic People's Republic of Korea in August 2014. Please confirm this information and inform the Committee about their fate upon return. Are there post-return monitoring arrangements in place to ensure that those returned to the Democratic People's Republic of Korea are protected from the danger of being subjected to torture?[15] In this regard, please comment on the findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea, according to which illegal immigrants in China, including victims of trafficking, are forcibly repatriated, and then subjected to persecution, torture, prolonged arbitrary detention and, in some cases, sexual violence or forced abortions at "gathering centres", detention centres or prison camps in the Democratic People's Republic of Korea.[16]

10. Please describe the facilities in which persons are held under administrative detention pending deportation. Do detainees have access to prompt and free health-care services and legal aid? How long do persons remain in such facilities on average? Are families with children above one year of age held in separate facilities?

Articles 5 and 7

11. With regard to paragraph 39 of the State party report, please indicate the legal provisions that establish personal and extraterritorial jurisdiction over the offences indicated in article 4 of the Convention, in accordance with article 5 (1) (b) and (c) and (2) of the Convention. Please also provide any relevant case examples of the exercise of personal and extraterritorial jurisdiction.

12. Please indicate whether, since the consideration of the previous report, the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture and, if so, whether the State party has started prosecution proceedings as a result. If that is the case, please provide information on the status and outcomes of such proceedings.

[15] See CAT/C/CHN/CO/4, para. 26.

[16] See A/HRC/25/63, paras. 42–45.

Article 10

13. In relation to paragraphs 49 to 55 of the State party report, and in the light of the Committee's previous concluding observations (para. 36) and the State party's comments thereon,[17] please provide information, indicating the overall size of the target group and the percentage of those trained, on the instruction provided for:

(a) Law enforcement personnel at all levels, State security organs and detention personnel with respect to provisions of the Convention, specifically the treatment of detainees and the non-refoulement obligation of article 3, as well as on the absolute nature of the prohibition of torture. Please provide information on training in areas such as non-coercive investigatory techniques, the principle of the use of force as a last resort, and issues related to violence against women, domestic violence and trafficking;

(b) Judges and prosecutors on the specific obligations under the Convention;

(c) Medical personnel involved with detainees and forensic doctors on the guidelines to detect signs of torture and ill-treatment in accordance with international standards, such as those outlined in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (the Istanbul Protocol);

(d) Immigration officials with respect to the non-refoulement obligation, the Istanbul Protocol, and the identification of victims of trafficking or sexual offences.

14. Please outline the measures taken to develop and implement a methodology to monitor and assess the effectiveness of training provided to law enforcement and judicial officials, as well as grassroots officials, to detect signs of, prevent and prohibit torture or ill-treatment. Please outline the role of independent non-governmental organizations in those efforts, if any.

Article 11

15. With regard to the Committee's previous concluding observations (para. 12) and paragraphs 33 and 63 of the State party report, please provide information on the measures taken to ensure that all instances of deaths in custody are independently and impartially investigated and that those responsible for such deaths resulting from torture, ill-treatment or wilful negligence are prosecuted. Please also provide annual statistical data from 2008 onwards on the number of deaths in custody, disaggregated by the deceased's sex, age and ethnic origin, the cause of death and the place of deprivation of liberty. Please also provide detailed information on the outcome of investigations into such deaths, including penalties imposed on perpetrators of torture, ill-treatment or negligence causing the death. Please indicate what information and remedies were provided to family members of victims of such violations and indicate the number of cases in which the relatives of the deceased raised doubts with the procuratorate as to the prison's medical appraisal, and whether an independent examination by forensic experts approved by the family was carried out as a result.[18] Please specify in the statistics the number of detainees who died as a result of a lack of timely medical care and treatment, indicating the penalties imposed on the managing personnel. Please also include information on the outcomes of investigations and penalties imposed on perpetrators in the following cases:

[17] See CAT/C/CHN/CO/4/Add.2, pp. 22–23.

[18] Ibid., pp. 7–8.

(a) The deaths of 14 detainees, caused by beating, in detention facilities in 2008, as referred to in the State party's follow-up replies;[19] and the deaths of 15 detainees due to "unnatural causes" in 2009, according to official data quoted in the press;

(b) The deaths in custody of: Lin Lifeng, in June 2009 in Guangdong Province, due to cardiac arrest caused by prolonged restricted breathing; Yu Weiping, in November 2009 in Shandong Province, due to a heart attack suffered after he was stabbed in the chest with sharp needles; Wang Huixia, in December 2009 in Shaanxi Province; and Chen Xujin, in February 2010 in Jiangxi Province, allegedly due to beatings by fellow detainees;

(c) The deaths of the Tibetans Chonjor, allegedly beaten to death on 9 December 2011 in Sangchu county; Karwang, who died in May 2012 at the Kardze county detention centre eight days after his arrest; Guldrak, who died the day of his arrest, on 8 August 2013 in Maywa village; Kunchok Drakpa, who died in December 2013 in Driru county and whose body bore signs of severe torture; and Ngawang Jamyang, whose body was returned to his family in Lhasa on 17 December 2013 bearing signs of torture;

(d) The deaths of persons that occurred soon after the persons were released from detention on medical bail or parole, such as the deaths in hospital of Li Wangyang, on 6 June 2012, and Cao Shunli, in March 2014; and the deaths of Tibetans Norla Ashagtsang, on 27 December 2010 in Lhasa, Goshul Lobsang, on 19 March 2014 in Gansu Province, and Tenzin Choedak, on 5 December 2014 in Lhasa, allegedly as a result of torture, mistreatment and deprivation of treatment in prison.

16. With reference to paragraph 61 of the State party report, please indicate the measures taken to keep under systematic review existing health-care services and to treat drug addicts and people with HIV/AIDS in all places of detention. Please clarify the criteria used to qualify an illness as "serious" and to grant medical parole, in accordance with article 26 of the Detention Centre Regulations. Please also comment on reports that State authorities often deprive dissidents of timely and adequate medical treatment as a form of political retaliation. In this regard, please indicate the current state of health of and the assistance, including medical parole, provided to Chen Xi, Xie Fulin and Zhu Yufu; the lawyers Jiang Yuanmin, Pu Zhijiang, Wang Yonghang and Gao Zhisheng, currently under house arrest; and the Tibetans Khenpo Kartse and Gongpo Tsezin.

17. In the light of the Committee's previous concluding observations (para. 13) and in follow-up to the abolition of the re-education through labour system in March 2014, please provide information and comment on:

(a) Reports that authorities have retaliated against victims who sought accountability and reparations for past abuses, as in the case of eight former detainees at the Masanjia women's re-education through labour camp, who were sent to prison in 2014;

(b) "Education centres", indicating the number of facilities of this kind that are operating, the regime applicable, the number of persons subject to this type of administrative detention, the reasons for their detention, the means of challenging such detention and any safeguards put in place for such detainees. How many complaints challenging the legality of the detention have been lodged in the period under review, where have they been lodged, and with what results?[20] How is confidentiality ensured for complainants?

(c) "Compulsory isolation drug treatment centres", indicating the means of challenging detention in such centres, the labour protection conditions in centres run by

[19] Ibid., p. 7.

[20] See E/C.12/CHN/CO/2, para. 22.

judicial administrative authorities, and the mechanisms in place to ensure that the Measures for the Administration of Compulsory Isolated Drug Rehabilitation Facilities of the Public Security Authorities, mentioned in paragraph 15 of the State party report, are respected in practice;

(d) Measures taken to monitor and oversee the exercise of power by the State security personnel, who may conduct arrests and impose administrative detention in accordance with article 3 of the Counter-Espionage Law and article 4 of the Criminal Procedure Law;

(e) The so-called *shuanggui* system applied under the Chinese Communist Party discipline inspection regulations, and comment on reports that persons disciplined under this system have been subjected to torture and abuse.

18. In relation to the Committee's previous concluding observations (para. 14), and further to the State party's follow-up replies stating that no detention facilities exist in China other than those established according to law,[21] please comment on reports, including those referred to in the joint study submitted by four special procedures mandate holders to the Human Rights Council in 2010,[22] of illegal administrative detention in so-called black jails, where detainees are deprived of fundamental legal safeguards and are subject to mistreatment and poor detention conditions. How many officials and how many private persons have been prosecuted for illegally operating secret detention facilities during the reporting period and what was the outcome? How many officials and private persons have been investigated for the abuses perpetrated in those secret facilities, including the rape of Li Ruirui in 2009, the death of Wang Delan in August 2013 and the death of Li Shulian in 2010? Please provide information about "relief services centres" in Beijing, indicating the number of such facilities that are operating, the number of persons who are subject to this type of administrative detention, the reasons for their detention, the means of challenging such detention and any safeguards put in place for such detainees.

19. In relation to paragraphs 7 and 27 of the State party report, please indicate the regime applicable regarding the use of restraints and solitary confinement (*xiaohao*) in non-medical and medical settings, including in compulsory isolation drug treatment centres. Are there any due process rights with regard to the imposition of disciplinary sanctions, including restraints and solitary confinement? Are the so-called tiger chairs, allegedly used for interrogations, permissible and, if so, how is their use regulated?

20. In relation to paragraphs 28, 57 and 64 of the State party report, what is the State party's position on the establishment of a monitoring mechanism, such as a national human rights institution, as recommended by the Committee on Economic, Social and Cultural Rights?[23] Please indicate the process for opening the criminal detention facilities to the public, including the hours during which the facilities will be open and the public dissemination of the relevant information. How many community organizations are monitoring places of detention, and how are their recommendations taken into account? How many unscheduled inspection tours by deputies to the people's congresses have been undertaken during the reporting period? Please provide examples of recommendations from community organizations that were subsequently implemented.

21. In the light of the Committee's previous concluding observations (para. 28), please provide information on measures to monitor law enforcement officials guarding women and girls, and the number of investigations into alleged incidents of violence against women in

[21] See CAT/C/CHN/CO/4/Add.2, p. 9.
[22] See A/HRC/13/42, paras. 168–170.
[23] See E/C.12/CHN/CO/2, para. 8.

detention, including complaints lodged with a resident procurator, and the number of prosecutions of officials responsible. Were any officials removed from their posts or otherwise sanctioned?

Articles 12 and 13

22. With regard to paragraphs 72 and 74 of the State party report, please provide updated annual data from 2008 onwards, disaggregated by crime, place of detention and ethnicity, age and sex of the victim, on: the number of complaints received by the procuratorate or other competent authorities relating to torture and ill-treatment, attempts, complicity or participation in such acts, and complaints related to killings or excessive use of force allegedly committed by, or with the acquiescence or consent of, law enforcement officials; the number of such complaints that were investigated and which authority conducted each investigation; the number of such complaints that were dismissed; the number of complaints that led to prosecutions; the number of complaints that led to convictions; and which penal and disciplinary sanctions were applied, indicating length of prison sentences. Please also specify the number of investigations into cases of torture and ill-treatment that resulted in ex officio prosecutions, per year; and the number of cases of torture or ill-treatment reported by doctors following medical examinations of detainees and the outcomes of those cases.

23. In the light of the Committee's previous concluding observations (para. 21), please provide information on the outcome of investigations, if any, and disciplinary and/or criminal proceedings regarding the alleged excessive use of force, torture and other ill-treatment by State officials during the suppression of the Tiananmen Square protests in Beijing in 1989. Please also include information on the number, whereabouts and length of sentences of participants in these protests still in detention since then and of persons who have allegedly been detained for organizing activities or expressing views to memorialize the event on the occasion of its twenty-fifth anniversary in 2014. Please comment on reports that authorities continue to supress any efforts by families, survivors or supporters to commemorate the event and to demand accountability for the human rights abuses committed in 1989.

24. In the light of the Committee's previous concluding observations (para. 25), please indicate whether there has been any independent investigation that would clarify the discrepancy, cited by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, regarding the number of transplants and the number of identifiable sources of organs and the finding that an increase in organ transplants coincided with the "beginning of persecution" of some Falun Gong practitioners. Has anyone been sanctioned or otherwise relieved from duty or transferred for participating in involuntary organ transplants of Falun Gong practitioners? Please also comment on allegations of the unlawful arrest, torture and deaths due to injuries sustained in custody of Falun Gong practitioners, such as Zhou Xiangyang and Hu Yanrong, and of defence lawyers for Falun Gong practitioners, such as Wang Yonghang.[24]

25. With regard to the events in the Xinjiang Uighur Autonomous Region in 2009 and thereafter, please provide information on the investigations into, and prosecutions and sanctions for, allegations of torture and other ill-treatment, and on the executions of persons, mostly from the Uighur ethnic group, for their involvement in alleged violent acts. In this respect, please indicate whether an investigation has been opened into the allegations of the torture of Ilham Tohti after his arrest in January 2014. Has the State party allowed independent observers, including the mandate holder of the Human Rights Council on

[24] A/HRC/13/39/Add.1 and Corr.1

minority issues,[25] full access to scenes of confrontation, relevant documents, witnesses and detainees?

26. In the light of the Committee's previous concluding observations (para. 29), please provide information on the total number of investigations or prosecutions launched against officials and other persons responsible for resorting to coercive and violent measures, such as forced sterilization and forced abortions, to implement the population policy, including the officials in Linyi referred to in the State party's follow-up responses,[26] with appropriate details as to the types of punishment and disciplinary measures applied, and any relevant redress provided.[27]

27. With regard to the events in the Tibet Autonomous Region and neighbouring prefectures and counties in 2008 and thereafter, please provide information on:

(a) The number of persons detained or imprisoned in relation to their public disagreement with official policies, and the measures taken to ensure that those detained are afforded fundamental legal safeguards and guaranteed humane treatment while in detention. In this regard, please provide information on the whereabouts, health condition and family visitation rights of: Dolma Kyab; Lobsang Konchok; Jigme Gyatso; Tenzin Deleg Rinpoche; Kalsang Yarphel; Pema Tinley and Chakdor; Lolo; Shawo Tashi; Trinley Tsekar; Achok Phulshung; and Choksal and Pema Rigzin;

(b) The number of complaints (disaggregated by offence), investigations and prosecutions carried out and convictions and punishments handed down during the period under review for threats and attacks against persons who have publicly expressed disagreement with official policies, and on excessive use of force in quelling demonstrations, including with respect to the deaths, allegedly resulting from indiscriminate firing by the police into crowds, of at least 13 persons on 16 March 2008 in Ngaba; 8 persons on 3 April 2008 in Thongkor; 1 man on 17/18 August 2010 in Palyul; 2 persons on 21 April 2011 in Ngaba; 2 persons on 23 January 2012 in Drango, where 36 other people were allegedly injured; 2 persons on 24 January 2012 in Serthar; 1 person on 26 January 2012 in Dzamthang county; 2 brothers on 9 February 2012 in Drango, allegedly while visiting their family home in Norpa village; 1 man on 6 March 2012 in Pema, where 2 other men were reportedly injured; 3 men on 12 August 2014 in Kardze, where 2 other men were allegedly hospitalized with gunshot wounds and whose fate is unknown; and Ngawang Monlam, leader of Wushong village, on 21 November 2014 in Driru;

(c) The number of complaints (disaggregated by offence), investigations and prosecutions carried out, and convictions and punishments handed down, in respect of allegations of torture and other ill-treatment of persons detained in the aftermath of the events in the Tibet Autonomous Region and neighbouring prefectures and counties in 2008 and thereafter, including the torture allegedly suffered by Long Jigme, between 23 March and 12 May 2008 and from 10 April to 29 July 2009, Tenzin Namgyal, in March 2008, and Kelsang Tsundue, in March 2008.

28. In the light of the Committee's previous concluding observations (paras. 20 and 31), please provide information on:

(a) How the procuratorial authorities are able to exercise full independence in their prison-monitoring function, particularly in the light of their dual role as supervisors and prosecutors of law enforcement personnel. Can those authorities make unannounced visits to detention facilities? Please provide information on the oversight mechanisms in

[25] See A/HRC/13/23, paras. 4 and 17.
[26] See CAT/C/CHN/CO/4/Add.2, p. 17.
[27] See E/C.12/CHN/CO/2, para. 26 and A/HRC/26/39/Add.2, para. 107 (c).

place to ensure that the procuratorial authorities are able to exercise full independence in their prison monitoring, as well as in their investigative capacity. Please clarify what type of authority political and legal committees (*zhengfawei*) exert over the police, procuratorial bodies and courts with regard to investigations;

(b) How the independence of the discipline inspection commissions and supervision departments of the public security organs, referred to in paragraph 70 of the State party report, is guaranteed during disciplinary investigations, so that there is no hierarchical or institutional link between the suspected perpetrators of torture and the inspectors. Are those bodies competent to intervene in cases involving evidence of torture or ill-treatment by public security organs? How do they interact with the procuratorial authorities during the investigation?

(c) The mechanisms in place by which the State guarantees the confidentiality and independence of the system for complaints of torture and ill-treatment in cases where the victims are deprived of their liberty, and how it guarantees that such victims are protected from possible reprisals;

(d) Whether all suspects in prima facie cases of torture and ill-treatment are, as a rule, suspended or reassigned during the process of investigation. In this regard, please comment on reports that perpetrators of torture are rarely suspended, indicted or held legally accountable.

Article 14

29. Please provide information for the period under review on all the points mentioned in paragraph 46 of the Committee's general comment No. 3 (2012) on the implementation of article 14 by States parties. In particular, please provide information on:

(a) The extent to which rehabilitation programmes, including medical and psychological support, are available to victims of torture and ill-treatment, including in cases of domestic or gender-based violence and of trafficking;

(b) Whether the scope of State compensation for victims of torture and abuse in detention centres would cover material and moral damages and other forms of reparation, such as restitution; satisfaction, including restoration of dignity and reputation; and guarantees of non-repetition;

(c) Protective measures available to victims of torture or ill-treatment and members of their families, indicating the number of protective measures that have been made available to victims of torture, with reference to the number of requests made. Please also state whether victims of torture have access to free legal aid.

30. Please provide statistical data on the redress and compensation measures granted per year, disaggregated by sex and ethnic origin of the claimant, including the means of rehabilitation ordered by the courts and actually provided to victims of torture or ill-treatment and their families since the examination of the previous periodic report in 2008. This information should include the number of applications lodged for State compensation for torture and abuse in places of detention, the number of applications time barred owing to the inaction of courts, and the number of applications granted, indicating the number of cases involving compensation for psychological harm, as well as the range of awards for successful cases.

Article 15

31. In respect of the amended article 54 of the Criminal Procedure Law, referred to in paragraph 89 of the State party report, please provide information on all instances in which this article has been invoked and the outcome of each instance. Please also indicate the

steps taken to ensure, in practice: that criminal convictions are based on evidence other than the confession of the detainee; that procurators and judges do not unjustifiably refuse requests by defendants to exclude evidence allegedly obtained through torture, including guidelines regarding the amount or type of evidence that would be deemed sufficient to rule out the possibility of torture; and that medical expert witnesses can testify in court during exclusionary proceedings, including guidelines regarding their appearance. In this regard, please elaborate on the implementation and effectiveness of the measures mentioned in paragraphs 91 and 92 of the State party report.

32. Please provide statistical information for the period under review on the number of cases in which detainees have alleged that their confessions were extracted through torture, the number of such complaints that led to investigations, and the outcomes of those investigations, including punishment meted out to convicted perpetrators, if any, and reparations and compensation offered to victims, if any. Please clarify whether video and audio recording of all persons present during proceedings in interrogation rooms has been expanded throughout the country, and provide statistics on the use of such recordings and any results or cases lodged against law enforcement or other officials as a result. Is the right to silence recognized in the domestic legal framework?

33. Please indicate whether investigations into the use of torture and ill-treatment to extract confessions were opened in the following cases and, if so, indicate the outcome, and whether the complainant was examined by an independent doctor following his or her complaint and at what stage in the investigation:

(a) Yang Chunlin, who was allegedly subjected to torture during his interrogation to extract a confession and was sentenced to five years of imprisonment in March 2008;[28]

(b) Gan Jinhua, who lost an appeal against a death sentence, which was allegedly the result of a confession extracted through torture, and was executed on 10 August 2012;[29]

(c) Fan Qihang, who was executed on 26 September 2010 following a rejected appeal of his death sentence and proceedings that did not take into account allegations that his confession had been extracted through torture;

(d) Lü Jiangbo, sentenced on 28 October 2010 to 11 years of imprisonment, allegedly as a result of a confession extracted through torture;

(e) Liu Ping, who during her interrogation was allegedly subjected to torture to extract a confession.

Article 16

34. In the light of the Committee's previous concluding observations (para. 19), please comment on reports of increased harassment and intimidation, including arrests and detention, of signatories of "Charter 08", such as the 2010 Nobel Peace Prize laureate, Liu Xiaobo, his wife Liu Xia, Wand Debang and Zhang Zuhua.[30] Please clarify the criteria used to qualify the application of the crimes of "subverting the political power of State", "inciting the subversion of the political power", "assembl[ing] to disturb public order with serious consequences", "assembl[ing] to attack State organs" and "undermin[ing] public order with provocative and disturbing behaviours", and indicate the number of human rights defenders and lawyers who have been deprived of their liberty since 2008 on the

[28] See CAT/C/CHN/CO/4, para. 11 and CAT/C/CHN/CO/4/Add.2, p. 6.
[29] See A/HRC/14/26/Add.1, paras. 220–224.
[30] See A/HRC/13/22/Add.1, paras. 298–396.

grounds of the above-mentioned crimes, disaggregated by year and type of offence. Please provide statistical information for the period under review on the number of complaints, disaggregated by type of offence, the outcome of investigations of those complaints, and the number of prosecutions, trials and penalties in cases of assault, threats and harassment, believed to be linked to the victims' activities as human rights defenders or petitioners, perpetrated against activists or their family members, including minors, by State officials or unofficial personnel.[31] In that connection, please provide information about the outcomes of investigations into the cases of threats and intimidation by State officials against Xu Yishun and Liu Shasha, as well as Chen Guangcheng, who was also allegedly subject to ill-treatment and torture while in detention. How does the State party protect minors, especially children of activists or petitioners, from psychological ill-treatment resulting from being interrogated and intimidated? Please explain the measures taken to prevent unofficial personnel from violently carrying out land evictions or forbidding citizen petitioning activities.

35. Please comment on reports that activists and petitioners are forcibly committed to psychiatric hospitals on an involuntary basis as a form of punishment for their activities. In this regard, please indicate whether any steps have been taken to investigate the allegations of the involuntary hospitalization of Zhao Xiuzhen, reportedly held against her will in a psychiatric hospital in the Nan'an District, and of Xing Shiku, whose detention in a hospital was declared arbitrary by the Working Group on Arbitrary Detention in May 2014.

36. In the light of the Committee's previous concluding observations (para. 24), please provide information on:

(a) Practical measures taken to ensure prompt, impartial and effective investigations into acts of discrimination or violence against members of ethnic minority groups by the police or private persons. Please provide information for the period under review on complaints of, investigations into and prosecutions and convictions brought in cases of ethnically motivated violence and discrimination;[32]

(b) Actions taken to adopt a comprehensive law on the elimination of discrimination on the grounds of national or ethnic origin, as recommended by the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights;[33]

(c) Data, disaggregated by ethnicity, on law enforcement officials belonging to ethnic minorities, and on the steps taken or envisaged to expand their number among law enforcement officials.

37. With regard to the Committee's previous concluding observations (para. 34), please provide information for the period under review on death sentences imposed; the number of executions carried out; the grounds for each conviction and sentence; the ethnic origin of the offenders; and the number and outcome of appeals in capital cases. Please indicate whether death row inmates: are shackled or handcuffed, and for how many hours per day;[34] are kept in solitary confinement, and for how long; can receive visits, and how often; are notified in advance, together with their relatives, of the date of execution; and can meet with their lawyers in strict confidentiality. In the light of the announcement of the Vice-Minister of Health, Huang Jiefu, in January 2015 that the practice of removing organs of persons sentenced to death without free and informed consent has been abolished, please

[31] See E/C.12/CHN/CO/2, para. 38.
[32] Ibid., para. 14.
[33] See CERD/C/CHN/CO/10-13, para. 11 and E/C.12/CHN/CO/2, para. 14.
[34] CAT/C/CHN/CO/4/Add.2, p. 20.

indicate whether there has been any investigation into such practices and whether the families of those executed persons whose organs were removed without their consent have had an opportunity to lodge complaints against the alleged perpetrators, and whether those complaints have been investigated and with what outcome, including redress and compensation.

38. In the light of the Committee's previous concluding observations (para. 35), please provide information on:

(a) The provisions of the Mental Health Law of 2013 regarding the process by which an individual may be involuntarily hospitalized, including on access to legal counsel and periodic judicial review of the decision. Please also indicate whether the Law provides for alternatives to hospitalization of persons with mental disabilities;

(b) The "gay conversion therapy" offered by mental health facilities, and clarify the meaning and implications of this so-called therapy, including in relation to the concept of free and informed consent of the person.

Other issues

39. Pursuant to the Committee's previous concluding observations (paras. 39 and 40), has the State party considered making the declaration under articles 21 and 22 of the Convention and withdrawing its reservations and declarations to the Convention, especially with a view to recognizing the competence of the Committee as provided for under article 20?